

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DORIAN PULLIAM, }
v. Plaintiff, } Civil Action No. 08-252 Erie
COMMONWEALTH OF }
PENNSYLVANIA, }
Defendant. }

MEMORANDUM ORDER

This civil rights case was commenced on September 8, 2008, when the Clerk of Court received Plaintiff's motion for preliminary injunction and motion for temporary restraining order. The case was referred to Chief United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Chief Magistrate Judge's Report and Recommendation [3], filed on December 2, 2008, recommends that the instant civil rights action be dismissed for Plaintiff's failure to prosecute, inasmuch as Plaintiff has failed to either pay the \$350.00 filing fee or, alternatively, file a motion to proceed *in forma pauperis* as directed by the Court's order dated September 17, 2008. The parties were allowed ten (10) days from the date of service in which to file objections. Service was made on Plaintiff by certified mail at SCI-Albion, where he is incarcerated. No objections were filed. After de novo review of the complaint and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 7th day of January, 2009;

IT IS HEREBY ORDERED that the instant civil rights action be, and hereby is, DISMISSED for Plaintiff's failure to prosecute.

The Report and Recommendation of Chief Magistrate Judge Baxter, dated December 2, 2008 [3], is adopted as the opinion of this Court.

s/ SEAN J. McLAUGHLIN

Sean J. McLaughlin
United States District Judge

cc: all parties of record
Chief U.S. Magistrate Judge Baxter